

# COUNTY OF YORK

## MEMORANDUM

**DATE:** October 2, 2000 (BOS Mtg. 10/17/00)

**TO:** York County Board of Supervisors

**FROM:** James E. Barnett, County Attorney

**SUBJECT:** Claim of Kiln Creek Associates, L. P.

Attached is a copy of a letter of August 11, 2000 from Mark A. Short of Kaufman & Canoles presenting a claim to the Board on behalf of Kiln Creek Associates, L. P. (KCA). The claim demands compensation for damages which allegedly incurred because of a failure of the sewer pumps and force main which service Kiln Creek Center, a shopping center owned by KCA on Route 17. As detailed in the letter, Kiln Creek Center is a strip shopping center served by a public gravity sewer main and forced sewer main. However, as was agreed between KCA and the County when the shopping center was developed in the late 1980's, the pump station servicing the shopping center is privately owned by KCA. KCA indicates that twice, in December 1999 and January 2000, it was required to replace two sewer pumps and to perform extensive repairs to a pump in January and February 2000, allegedly because of a failure by the County to maintain the public sewer line into which the privately owned pumping station discharges its sewage. KCA insists that the problem arose from a failure of the County to control the number of additional connections which have been allowed to tap into the sewer main, subsequently causing a blockage which resulted in a backup of pressure into the pumping station, causing it to suffer damages. KCA asks for compensation in the total amount of \$28,499.00.

I spoke with County employees in the Department of Environmental and Development Services (EDS), and obtained from them a significantly different version of the facts. EDS serviced the sewer mains and repaired the blockage that allegedly caused the damage to KCA's pumps. According to EDS officials, there was indeed an obstruction of the sewer main which occurred at the times described in Mr. Short's letter. However, EDS officials report that the blockage consisted almost entirely of grease from the County Grill restaurant which is located in Kiln Creek Center. The County found no other blockages affecting the sewer mains. According to EDS, it is the County who incurred substantial cost in repairing a blockage caused by improper discharge of waste materials into the sewer line. Attached is a memorandum of August 31, 2000 from Jeff Dunn, Utilities Operations Superintendent, describing the efforts undertaken by the County to remedy the blockage that apparently caused the damages to KCA's sewer pumping station which are the basis for its claims. In order to prevent further intrusion of grease into the County's sewer main, EDS installed an isolation valve at the point of connection between the County's mains and the shopping center's lateral lines. I am advised that were the sewer lines to be constructed today, an isolation valve would most likely be required to be installed by the shopping center developer as a routine measure. However, at the time the shopping center was being

constructed, such precautions were not considered routine. In any event, it appears that the cause of the blockage to the sewer main was not the lack of an isolation valve, but the improper dumping of grease into the sewer system.

Based on the report from EDS, I have prepared resolution R00-168 which, if adopted by the Board, would deny KCA's claim. Based on my investigation of this matter, I recommend that the claim be denied.

Barnett/3440:mrc

Attachments

- Letter from Mark A. Short, Kaufman & Canoles, of August 11, 2000, to Walter C. Zaremba, Chairman
- Memorandum to file from Jeff Dunn, Utilities Operation Superintendent, of August 31, 2000
- Resolution R00-168